

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Dean Kinningham,)	C/A No.: 1:12-439-JMC-SVH
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
Warden Adwell; Greg Livingston, RN)	
Nurse; GEO Care,)	
)	
Defendants.)	
)	

This matter comes before the court on the Motion to Dismiss [Entry #36] of defendant GEO Care of South Carolina, incorrectly identified as GEO Care (hereinafter “GEO”). In its motion, GEO argues that the complaint should be dismissed for Plaintiff’s alleged failure to properly serve the summons and complaint in this matter pursuant to Fed. R. Civ. P. 12(b)(5) because the certified mail return receipt was not signed by an person authorized to accept service of process for GEO.

In light of the procedural history of this case, counsel for GEO is directed to indicate to the court by September 20, 2012, by a filing on the docket, whether he can accept service of process on behalf of GEO or whether GEO will waive service. If GEO accepts or waives service, this case will proceed on the merits and the undersigned will order that the caption be amended to reflect the correct identification of GEO. Additionally, the undersigned will likely deny Plaintiff’s pending motion for a default judgment [Entry #29] and Defendant’s motion to dismiss will be rendered moot. If GEO does not accept or waive service, the court will determine whether it has met the burden

of proof in showing that it was not properly served in this matter. In the event that the court determines GEO has not been properly served, the court will likely grant Plaintiff additional time to serve GEO and permit discovery on the same, if necessary.

IT IS SO ORDERED.



September 6, 2012
Columbia, South Carolina

Shiva V. Hodges
United States Magistrate Judge